

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

(1) DARIUS FERFUSON 201501085

(Name of Plaintiff) (Inmate Number)

M.C.C. 4250 WILDER DRIVE
STRoudSBURG, PA 18360

(Address)

(2) (SEE Roslyn Wilson v. G. SILVERIO

(Name of Plaintiff) (Inmate Number)

STATE CITUS..

(Address)

(Each named party must be numbered,
and all names must be printed or typed)

vs.

(1) G. SILVERIO

(2) See. EYSPS

(3) Warden George Heidle

(Names of Defendants)

All of M.C.C.

(Each named party must be numbered,
and all names must be printed or typed)

3:21-CV-0739

(Case Number)

CIVIL COMPLAINT

FILED
SCRANTON

APR 23 2021

PER JW DEPUTY CLERK

TO BE FILED UNDER: 42 U.S.C. § 1983 - STATE OFFICIALS

28 U.S.C. § 1331 - FEDERAL OFFICIALS

I. PREVIOUS LAWSUITS

A. If you have filed any other lawsuits in federal court while a prisoner, please list the caption and case number including year, as well as the name of the judicial officer to whom it was assigned:

2/4

II. EXHAUSTION OF ADMINISTRATIVE REMEDIES

In order to proceed in federal court, you must fully exhaust any available administrative remedies as to each ground on which you request action.

A. Is there a prisoner grievance procedure available at your present institution? Yes No

B. Have you ~~fully~~ exhausted your available administrative remedies regarding each of your present claims? Yes No

C. If your answer to "B" is Yes:

1. What steps did you take? Filed a grievance docketed
28 2021-6-0007

2. What was the result? SGT. E/F/S - DENIED
Warden Heidle concurred with Step(1)
"SEE ENCLOSURES"

D. If your answer to "B" is No, explain why not:

III. DEFENDANTS

(1) Name of first defendant: 90 SILVERIO

Employed as correctional officer at M.C.C.F.
Mailing address: 4250 Manor Drive, Stroudsburg, PA 18360

(2) Name of second defendant: SGT. E/F/S

Employed as correctional officer at M.C.C.F.
Mailing address: 4250 Manor Drive, Stroudsburg, PA 18360

(3) Name of third defendant: Warden Gerry Heidle

Employed as Warden at M.C.C.F.
Mailing address: 4250 Manor Drive, Stroudsburg, PA 18360

(List any additional defendants, their employment, and addresses on extra sheets if necessary)

IV. STATEMENT OF CLAIM

(State here as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. Attach no more than three extra sheets if necessary.)

1. On 12-22-2020 or the 90 silverio while escorting me to my cell and started grabbing on me and begin to take me to the ground. While on the ground he begin to kick me in my ribs to cause serious bodily injury using excessive force. When I was compliant I filed a grievance about this brutal assault as this was not his first incident but silverios 5 incident using excessive force to cause serious bodily injury (see enclosures) (Exhibit B-1)

2. As they knew this man is assaulting inmates and set. exers reply (step 1) to my grievance and failed to remedy this matter, misleading that I refused to follow orders when the video surveillance footage will prove (indeed) was (as he stated - while was being escorted) that resulted in this brutal assault by silverio condoning these assault these guards are giving out on 1.26.21 was his reply

3. On 2.18.21 Warden Heidle who vaguely stated ("PLEASE SEE THE RESPONSE IN STEP 1) and no one looked to investigate this matter of excessive force by c/o silverio.

I was seriously injured by c/o silverio resulting in medical care for fractured ribs (see medical records) and it's not an isolated incident also see wilson v. silverio, et al. and no one is trying to stop this officer from brutally assaulting inmates

V. RELIEF

(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.)

1. to declare c/o silverio actions unconstitutional; immediate file him for excessive force before he kills or permanently injure an inmate; to award \$1 in compensatory and \$50,000 in punitive damages for excessive use of force by silverio who brutally assaulted me while being escorted to my cell and that their denial of relief he's liable.

2. to declare set. Heidle's action to not investigate and thoroughly review this matter of excessive force by c/o silverio unconstitutional; to award \$1 compensatory and \$50,000 punitive damages for excessive use of force by silverio who brutally assaulted me while being escorted to my cell and that their denial of relief he's liable.

3. to declare heidle vague reply unconstitutional as I don't think they ever remediate grievances as to deny, deny, deny, and for condoning these assault and not properly training his officers that this c/o silverio is using excessive force assaulting inmates by brutally punching them in their ribs and knee or ankles causing serious bodily injury

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 12 day of April, 2021.


(Signature of Plaintiff)

PAGE 1 OF 2 CONTINUATION

MONROE COUNTY CORRECTIONAL FACILITY
INMATE GRIEVANCE FORM

INMATE NAME: DARIUS FERGUSON OCA# 201501055

GRIEVANCE TRACKING # 2021-G-0007

PART I: WHILE TALKING ON THE PHONE WHILE ON A "LATE RELEASED" REC OUTING, AND WHILE THE T.V. WAS LOUD. I WAS TALKING ON THE PHONE WITH MY WIFE, AND I WAS QUITE ANIMATED AND LOUD, WHILE THE CO. WAS TRYING TO GET MY ATTENTION. I WAS NOT PAYING ATTENTION OR LOOKING AT THE CO. AS MY CALL WAS OF AN URGENT FAMILY MATTER, NOT TO MENTION COSTLY AND BASED ON DURATION. HAVE YOU EVER BEEN ON THE PHONE WITH SOMEONE IN A HEATED CONVERSATION WHILE SOMEONE ELSE IS TRYING TO TALK WITH YOU? THIS IS ANNOYING AND UNPRODUCTIVE FOR ALL INVOLVED, ESPECIALLY UNDER STRESSFUL CONDITIONS. I ALSO WANT TO STATE FOR THE RECORD THAT AT NO TIME DID I BECOME UNCOOPERATIVE. I DEFINITELY VOICED MY DISPLEASURE WITH MY WIFE AND AS I SAID EARLIER I TEND TO GET ANIMATED IN THESE INSTANCES. THE CO. DIDN'T LIKE MY VOLUMN SO I TUNED IT DOWN, BY THAT TIME HE ENDED THE REC. HAD SOMEONE INDICATED I WAS LOUD OR AWAKENED THEIR SLEEP I WOULD HAVE REFRAINED FROM BEING SO LOUD. HAD I HAVE BEEN "UNCOOPERATIVE" I WOULD NOT HAVE BEEN RESTRAINED SO EASILY.

ALSO IT SHOULD BE DULY NOTED THAT THIS OFFICER HAS SEVERAL

PAGE 2 OF 2 CONTINUATION

MONROE COUNTY CORRECTIONAL FACILITY
INMATE GRIEVANCE FORM

INMATE NAME: DARIUS FERGUSON ICA# 20150155

GRIEVANCE TRACKING # 2021-G-0007

PART I: INSTANCES OF EXCESSIVE USE OF FORCE/BODILY HARM AND IS A DIRECT RESULT OF AN EVEN BIGGER SOCIOPATHIC BEHAVIORAL ABNORMALITY. THIS OFFICER SHOULD ALSO RECEIVE SOME FORM OF COUNSELING TO CONTROL HIS ANGER ISSUES. THERE WAS NO NEED TO MALICIOUSLY AND WILLFULLY ATTEMPT TO CAUSE ME BODILY INJURY BY KNEEING ME IN THE RIBS TO SUBDU SOMEONE ONE ALREADY ACQUIESSED TO HIM.

PART II: IN ABEYANCE, UNTIL SUCH TIME THE BOARD DEEMS APPROPRIATE TO JUDGE MY DEMEANOR AND ACTIONS/CONDUCT OVER A PROLONGED PERIOD. A DISCIPLINARY HEARING FOR OFFICER SILVERIO SHOULD BE SCHEDULED AS THIS IS HIS 4TH INSTANCE OF UNCONTROLLED ANGER/ABUSIVE FORCE IN A 30 DAY PERIOD. HE HAS A HISTORY OF "ASSAULTING" DETAINES. IN THAT I WAS "KNEED IN MY RIBS" THERE WAS AN EXTREME INTENT TO CAUSE MY SEVERE BODILY HARM. I NEED TO CONTINUE MEDICAL CARE AND FOLLOW UP FOR FRACTURED RIBS, PNEUMONIA, AND OTHER COMPLICATIONS ASSOCIATED WITH URI'S IN THIS AGE OF CORONA. I ALSO WILL PURSUE CIVIL ACTIONS TO ENSURE THIS TYPE OF SANCTIONED BEHAVIOR IS NOT CONDONED IN THIS FACILITY.

2

Inmate Grievance Form

A

Inmate's Name: Darious Ferguson OCA# 201501055

Date Grievance requested 1/8/2021 Date Grievance given to inmate 1/8/21

Grievance Tracking Number 2021-C-0007

Completed grievance received by Grievance Coordinator on _____

Inmate Filing Grievance:

Complete Parts I and II of this form using clear, specific and brief statements. Attach any request slips which will verify your attempt to resolve this issue with correctional staff and/or supervisors.

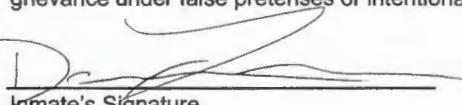
Part I: State your grievance clearly. If you need more space attach a separate sheet of paper.

AGRIEVED IN MATE STATES THE AGRIEVED STATE WAS
THE RESULT OF AN OVER ZEALOUS OFFICER AND
ONE INTIMIDATED BY THE IN MATES SIZE AND PRESENCE.
(SEE CONTINUATION SHEET (#2))

Part II: Action or relief requested.

AGRIEVED IN MATE REQUESTS ALL MISCONDUCTS
ASSOCIATED WITH THIS INCIDENT TO BE REMOVED AND
DEEMED INAPPROPRIATE. OR THIS INSTANCE CAN BE HELD

Certification: I submit this grievance in good faith, having exhausted all other remedies and without the intent to harass. I affirm that all statements I have given are true and correct. I understand that I have guarantee against reprisal but also understand that I may face disciplinary action if I have filed this grievance under false pretenses or intentionally made false statements.


Inmate's Signature

DARIOUS FERGUSON

Inmate Print Name

Grievance Response - Step 1

Answered by SLT-Ever Date: 1/26/2021
This incident was due to you refusing to follow multiple orders to lock down
after you caused a disturbance on the unit. while being escorted you
teased up and began to pull away which resulted in you being secured on
the floor. The minimum amount of force necessary was used in order to
gain control of you and secure you in handcuffs. All relief requested is
denied.

I, Inmate Darious R Ferguson do not agree with the response in Step 1
and would like this grievance to be sent to the final grievance step.

I understand the Final Step, answered by the Warden/designee is the final step in the
grievance process and shall be considered final.


Inmate Signature

Darious R Ferguson
Print name and date

Grievance Response - Final Step

Answered by Warden Warden Hinkle Date: 2/10/2021
Please see the response in step 1



Mr. David Ferguson 201501055
4750 Maner Dr
Stroudsburg PA 18360



RECEIVED
SCRANTON

APR 23 2021
U.S.D.C
P.O. Box 1148
Scranton PA 18501
PER S. J. CLERK

U.S.D.C

P.O. Box 1148
Scranton PA 18501
PER S. J. CLERK

RECEIVED
SCRANTON
APR 23 2021
U.S.D.C
P.O. Box 1148
Scranton PA 18501
PER S. J. CLERK

185011148 8099

185011148 8099